IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 186 of 2005 (S/B)

Pani Ram Arya,
S/o Late Sri Ram Lal,
Serving as Forest Ranger,
Sharda Range, Haldwani Forest Division,
Haldwani, District Nainital. … Petitioner

Versus

1. Principal Chief Conservator of Forest,
   Uttaranchal, Dehradun.
2. Chief Conservator of Forest,
   Garhwal and Administration,
   Uttaranchal, Dehradun.
3. Conservator of Forest,
   Bhagirathi Circle, Muni Ki Reti,
   Uttarkashi.
4. Divisional Forest Officer,
   Uttaranchal Forest Division,
   Uttarkashi.
5. Divisional Forest Officer,
   Haldwani Forest Division,
   Haldwani, District Nainital. … Respondents

Mr. Manoj Tewari, Advocate for the petitioner.
Mr. B.D. Kandpal, Standing Counsel for the State of Uttaranchal.

Coram: Hon. Cyriac Joseph, C.J.
Hon. J.C.S. Rawat, J.

JUDGEMENT

CYRIAC JOSEPH, C.J. (Oral)

1. The petitioner is a Forest Ranger in the Department of Forest, Government of Uttaranchal. He challenges Annexure 12 order passed by the second respondent imposing certain punishment on the petitioner at the conclusion of the disciplinary proceedings initiated against him. The impugned punishments include recovery of a sum of Rs. 1,16,201/-, bar of three annual increments without cumulative effect, censure of the delinquent officer and a direction not to post the petitioner in any sensitive range for a period of five years. Against

Annexure 12 order, the petitioner has filed Annexure 13 appeal before the first respondent on 13.06.2005, Though the petitioner requested for staying the recovery of the amount, no stay was granted and as per Annexure 14 order, a sum of Rs. 2,242/- is ordered to be recovered from the salary of the petitioner every month.

2. Having heard learned counsel for the petitioner and the learned Standing Counsel who accepted notice for respondents Nos. 1 to 5 and having considered the materials placed on record, we are of the view that the correctness or the validity of Annexure 12 order need not be considered by this Court at this stage, as the statutory appeal filed by the petitioner is pending before the fist respondent. At the same time, having regard to the facts and circumstances of the case, we are of the view that the recovery of any amount from the salary of the petitioner should be kept in abeyance till the disposal of the appeal filed by the petitioner. When the statutory appeal against the impugned recovery is pending and when no order has been passed on the request of the petitioner for stay of the order of the second respondent, there is no justification for effecting the recovery of the amount from the petitioner.

3. Hence, the writ petition is disposed of in the following terms:

i. The first respondent is directed to consider and dispose of Annexure 13 appeal filed by the petitioner against Annexure 12 order as expeditiously as Possible and at any rate, within a period of three months form the date of receipt of a copy of this judgment.

ii. Pending disposal of Annexure 13 appeal, the respondents are directed to keep in abeyance the recovery of any amount from the petitioner on the basis of Annexure 12 order.

iii. After the disposal of the appeal, the right of the respondents to recover the amount from the petitioner will depend upon the decision in the appeal.

The petitioner may produce a copy of this judgment before the first respondent for information and compliance.

(J.C.S. Rawat, J.)
05.09.2005

(Cyriac Joseph, C.J.)
05.09.2005

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